

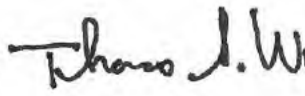


**U.S. Customs and
Border Protection**

NOV 12 2013

Commissioner

MEMORANDUM FOR: Chris Cummiskey
Acting Under Secretary for Management
U.S. Department of Homeland Security

FROM: Thomas S. Winkowski 
Acting Commissioner

SUBJECT: Special Exemption Background Investigations

Since 2004, internal corruption in U.S. Customs and Border Protection (CBP) has resulted in 160 arrests; employee misconduct has resulted in more than 2,400 arrests. These numbers clearly indicate the necessity for CBP to deploy the most effective and reliable method of pre-employment screening.

Based on the results of pre-employment polygraph examinations utilized during the hiring process of CBP law enforcement positions, CBP proposes the creation of a new class of background investigations, Special Exemption Background Investigations (SEBI). Research has effectively demonstrated significant results of CBP's polygraph program and its ability to identify applicants who failed polygraph examination, but would have otherwise been found suitable based on the completion of the Single Scope Background Investigation (SSBI). The SEBI will enable CBP to employ polygraph examinations to effectively screen applicants while meeting hiring mandates, address corruption and misconduct concerns, and control the budget impact of the background investigation process.

Attached is CBP's SEBI proposal for review and consideration. Questions or comments regarding the proposal can be direct to Assistant Commissioner James F. Tomsheck, Office of Internal Affairs at (b)(6) (b)(7)(C)

Attachment

**U.S. CUSTOMS AND BORDER PROTECTION
OFFICE OF INTERNAL AFFAIRS
PROPOSAL FOR A SPECIAL EXEMPTION BACKGROUND INVESTIGATION**

Executive Summary

Based on the results of polygraph examinations utilized during the hiring process of CBP law enforcement (LE) positions, CBP proposes the creation of a new class of background investigations, Special Exemption Background Investigations (SEBI). Approval of the SEBI by the Office of Personnel Management (OPM) will enable CBP to employ polygraph examinations to effectively screen applicants while meeting hiring mandates, to address corruption and misconduct concerns, and to control the budget impact of the background investigation process. The SEBI will reduce initial screening costs associated with onboarding new law enforcement officers by approximately 44 percent while at the same time ensuring only those applicants suitable for employment in federal law enforcement positions are allowed to enter on duty. This is essential as internal corruption in CBP has resulted in 163 arrests since October 2004, and employee misconduct has resulted in more than 2,400 arrests.

Background

CBP is required to maintain staffing of over 21,000 Officers in the Office of Field Operations and 21,000 Agents in the U.S. Border Patrol. The hiring for attrition that must occur to maintain these staffing levels creates an ongoing hiring initiative that will result in sustained background investigation-related costs.

In August 2007, CBP was granted the authority to administer polygraph examinations to applicants for CBP LE positions. Since that time, CBP has built a polygraph program that is in full compliance with the federal polygraph standards established by the National Center for Credibility Assessment (NCCA) and enforced by OPM.

The Anti-Border Corruption Act of 2010 mandated that CBP begin polygraph testing all applicants for CBP law enforcement positions no later than January 1, 2013. CBP met this requirement on October 1, 2012, and as of July 2013, CBP's Office of Internal Affairs has administered over 20,000 polygraph examinations to LE applicants.

The results of the CBP polygraph program are significant. Approximately 58 percent of the applicants tested are ultimately found unsuitable for employment in a law enforcement position based on a failed polygraph examination. The information revealed during the polygraph examinations includes applicants who were working for or who had previously been associated with drug and human trafficking organizations. In other instances, applicants were found to have engaged in serious crimes that had gone previously undetected by law enforcement.

In a study of 10,000 CBP applicants polygraphed between October 1, 2010 and January 16, 2013, only 33 percent of the applicants cleared the polygraph examination. Ninety-six percent of those applicants who cleared the polygraph examination were ultimately found suitable for

employment after the completion of a Single Scope Background Investigation (SSBI). The remaining 4 percent of the applicants found unsuitable for employment after clearing a polygraph examination were found to have derogatory information in their backgrounds related to prior employment or financial issues, or inconsistencies in statements made in their original application packages, the polygraph examinations and the SSBI interviews.

In a study of 1,000 CBP applicants who were subjected to a polygraph examination between September 2009 and February 2013 after clearing a traditional SSBI, 65 percent failed to successfully clear the polygraph examination. Ninety-nine percent of those applicants who failed to clear the post-SSBI polygraph examination were found unsuitable for employment in a CBP law enforcement position based on admissions during the polygraph examination involving extensive drug use, criminal activity, falsification of application forms, criminal conduct, and criminal associations not disclosed during the SSBI.

The SEBI, which is similar in practice and scope to the Phased Periodic Reinvestigation already approved by the Director of National Intelligence, will efficiently identify pre-employment suitability factors through a polygraph examination and reviews of an applicant's prior work history and financial records. The SEBI will eliminate less productive investigative requirements such as a personal interview and neighborhood checks.

Since 2006, CBP has expended more than \$360 million to conduct over 112,500 SSBI, an average cost of \$3200 per applicant. Based on existing contract pricing, the cost estimate for a CBP SEBI is approximately \$1,800 – nearly 44 percent less than the cost of a traditional SSBI.

Given CBP's need to efficiently address attrition in its law enforcement ranks while continuing to abide by the mandates of the Anti-Border Corruption Act of 2010, the potential hiring initiatives associated with Comprehensive Immigration Reform and other Administration priorities, and funding limitations resulting from sequestration-related restrictions, CBP requests authorization to implement the SEBI proposal as detailed herein.